IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.1173 OF 2006

M/s.Ramji Dayawhala & Sons Co. & ors. Petitioners
vs.
The Appellate Tribunal for Foreign
Exchange & ors. Respondents

Mr.M.M.Patel for the petitioners.

Mr.Y.S.Bhate with Mr.Y.R.Mishra for the respondents.

CORAM : R. M. LODHA &
J. P. DEVADHAR,JJ.

DATED : 24th April, 2006

P.C.

Heard.

2. The counsel for the petitioners submits that adequate opportunity of hearing was not given by the Tribunal and, therefore, the impugned order suffers from principles of natural justice. In this connection, he referred to the application dated 20th September, 2005 made by him before the Tribunal indicating that ten matters in which he represents various parties have been fixed from 26th September, 2005 to 6th October, 2005 on different dates and it is not possible to remain present in Delhi ten times in a span of fifteen days.

3. We are not impressed by the submission of the counsel.

4. The impugned order came to be passed on 10th

October, 2005. Prior thereto on three occasions at the request of the counsel for the appellant, the appeal was adjourned. This fact is not disputed. Once an advocate accepts the brief, it is his professional obligation to appear as and when the matter is fixed. It is no ground that ten matters having been fixed in a span of fifteen days and it is not possible to attend all these cases in the span in fifteen days. On 29th September, 2005, the matter was adjourned by the Tribunal at the request of the advocate for the appellant; the next date may not have been given of his choice. That did not mean that the advocate would not appear on the adjourned date.

5. In our considered view, the order cannot be said to suffer from any error of law or jurisdiction. As a matter of fact, despite non-appearance of the appellant or his counsel, the Tribunal was quite considerate in waiving the predeposit to the extent of 50% of the penalty.

6. No case for interference is made out.

7. Writ petition is dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)